

State of Washington Medicaid Policy for Institution for Mental Diseases (IMD) Determination

Purpose

The purpose of this policy is to provide a high-level overview for Medicaid providers about the basics of the IMD exclusion. This will provide a beginning understanding of the IMD guidelines and the role of the Health Care Authority (HCA) in determining the IMD status for facilities.

Section 1 - IMD Background and Definitions

An IMD is defined in the Social Security Act (Section 1905(i)) and in the Code of Federal Regulations (42 CFR § 435.1010) as **“a hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment or care of persons with mental diseases, including medical attention, nursing care and related services.”** Please note that the term “mental disease” includes both substance use and mental health disorders.

Whether an institution is an institution for mental diseases is determined by its overall character as a facility established and/or maintained primarily for the care and treatment of individuals with mental diseases, **whether or not it is licensed as such.**

What legal authority governs IMD determination?

The IMD exclusion is part of the Medicaid program and was enacted in 1965 as part of the Social Security Amendments (P.L. 89-97). The exclusion was designed to assure that states, rather than the federal government, maintained primary responsibility for funding inpatient psychiatric services. **Under definitions set out in 42 CFR § 435.1010, this can include facilities that provide behavioral health services to individuals in a variety of residential settings.**

What rules are used to determine IMD status?

The Center for Medicare and Medicaid Services (CMS) has published guidelines in the State Medicaid Manual (Chapter 4, § 4390) in order to help states determine whether an institution is an IMD. HCA uses an IMD assessment tool based on these guidelines to review IMD status and is the single state agency responsible for determining if a facility is an IMD.

Does being an IMD affect Medicaid Funding?

Yes. Federal law states that federal financial participation is not available in expenditures for services provided to individuals under age 65 who are patients in an institution for mental diseases unless they are under age 22 and are receiving inpatient psychiatric services under 42 CFR 440.160. Services in a facility designated as an IMD are paid with state funds.

Policy Reference: [https://www.ecfr.gov/current/title-42/part-435/section-435.1009#p-435.1009\(a\)\(2\)](https://www.ecfr.gov/current/title-42/part-435/section-435.1009#p-435.1009(a)(2))

IMD Policy Notes

- An IMD designation is **not** a licensing category, it is a description of the overall facility characteristics.
- A facility does **not** have to be licensed as a behavioral health facility to be considered to be an IMD by CMS.

Section 2 - Determining Whether a Facility is an IMD

1. If a provider is a potential IMD, based on its facility characteristics, HCA sends the facility a letter describing the IMD process and asks them to complete the IMD Assessment tool and offers technical assistance to complete.
2. The facility completes the IMD Assessment and sends it back to HCA.
3. Designated HCA staff review the completed IMD Assessment and set up a teleconference to discuss the facility characteristics with the facility administration.
4. During the teleconference, the facility and HCA staff review the completed assessment and discuss the overall character of the facility.
5. Based on the completed assessment, teleconference discussion, and other known information, HCA staff determines whether or not the facility is an IMD.

Policy Note

For ALTSA licensed or contracted facilities, HCA and ALTSA will work together to review the IMD Assessment for IMD determination. HCA has the ultimate responsibility to determine IMD status.

Facility Bed Count Guidelines

A facility's bed count is an important factor in determining IMD status. **Multiple facilities under the same ownership, which combine to have more than 16 beds, may constitute one entity** for the purpose of IMD determination per the State Medicaid Manual. This federal guidance requires HCA to review all related facilities and to consider several factors such as the overall bed count and the percentage of people being served with a mental disease (including a substance use disorder).

⚠️ IMD Re-Determination: If the circumstances of your business plan or your facility change after an IMD determination, the IMD status of your facility will need to be reassessed. This includes, but is not limited to, adding or subtracting beds, or opening or closing a new facility

Facility Bed Count Scenarios

The following bed count scenarios are used to determine the next steps for IMD determination.

Scenario 1

16 beds or less **AND NOT** shared ownership with a co-located (same campus) or commonly owned (separate campus) facility

Next Steps: Confirm Stand-alone status. If confirmed, facility is **NOT an IMD**

Scenario 2

16 beds or less **AND** shared ownership with a co-located or commonly owned facility

Next Steps: Needs further review of the other facilities. **May be an IMD**

Scenario 3

17 Beds or more

Next Steps: Needs further review of the overall character of the facility, which includes the patient population. **May be an IMD**

Section 3 - IMD Frequently Asked Questions (FAQ)

Question 1: Our facility has beds that are used to accommodate the children of individuals who are being treated. Do these beds count towards the overall bed count?

Answer: No. Beds that are not licensed or used as treatment beds do not need to be counted.

Question 2: How is the term co-located (same campus) defined when reviewing for IMD status?

Answer: Co-located means physical proximity, such as same address or campus.

However, multiple facilities that are **not** co-located may also be considered a single institution if the assessment determines they share resources such that they could not operate as an independent program (e.g., staff, food service, Medical Director, administrative support, etc. See answer for question #4.)

Question 3: What is an example of a facility that would **never** be considered an IMD?

Answer: An institution dedicated to solely treating persons with intellectual disabilities would **not** be considered an IMD.

Question 4: If an agency has two facilities that each have 16 beds or less that are located on two **separate** properties, would that qualify as an IMD if the other criteria regarding mental health diagnosis are met?

Answer: An analysis would need to be conducted to determine whether the facilities should be considered independent of each other. Factors to consider would include whether the two properties share services or staff and whether the facilities are so organizationally and geographically separate that it is not feasible to operate as a single entity.

If they are not considered independent, they **may** meet IMD criteria if there are 17 beds or more between both programs, and the residents meet the criteria for mental health diagnosis. An analysis would need to be done to determine if more than 50% of the residents have mental health or substance use disorders, to make a final IMD decision.

Question 5: What are some examples of facilities that could be IMDs (**not** an all-inclusive list)?

Answer: Psychiatric hospital, nursing facility, crisis stabilization unit, residential treatment facility, long-term care residential facilities

Contact us!

If you have any IMD questions, please reach out to HCA staff at our IMD mailbox at HCAimd@hca.wa.gov or our DSHS reps at the Resource Support and Development team: resourcedevelopment@dshs.wa.gov and we will be happy to assist you

